

## Practices

### Related Practices

Alternative Dispute Resolution, US  
Domestic Arbitration, and Mediation  
Bankruptcy, Business Insolvency, and  
Restructuring Representation  
Bankruptcy and Insolvency Litigation  
Directors and Officers Liability  
Litigation  
Fiduciary Litigation  
Professional Liability Litigation

### Related Sectors

Real Estate

### Fiduciary and Receiver Representation

Diamond McCarthy has decades of experience in restructurings, fiduciary representation, and bankruptcy throughout the United States and around the globe. We have substantial experience in international matters in Europe, Asia, South and Latin American, and the Caribbean, including matters involving cross-border joint protocol and enforcement and collection of foreign assets, among many others. Several of the lawyers at the firm also serve as Chapter 11 trustees.

Our clients include trustees, liquidating trustees, foreign liquidators, receivers, creditors, creditors' committees, corporate debtors, and litigants in insolvency proceedings. The cases we handle cross a host of industries, including technology companies, industrial concerns, financial businesses, law firms, retail and wholesale food companies, energy, mining and oil & gas companies, agricultural companies and cooperatives, and local, state, national and foreign governments. Our team has extensive experience in:

- Fiduciary representation and administration of complex insolvency cases
- Corporate restructuring and representing various constituents in chapter 11 cases
- All aspects of commercial, financial, and other complex litigation

Strong history in representing trustees, liquidating trustees, and receivers in the following capacity:

- Handle the administration of complex cases involving the largest sums of money recovered in cases and with thousands of creditors
- Protect, preserve and monetize estate assets
- Investigate, analyze, and prepare for potential estate litigation
- Position the client to best pursue such claims on behalf of the estate
- Work within the case to find funding for the litigation

In representing bankruptcy trustees as well as federal equity receivers, the firm handles all aspects of these cases. The firm has played a lead or significant role in many of the largest and most well-known corporate and accounting fraud cases in the world, including domestic and international Ponzi schemes. We handle cases that involve complex issues arising in the intersection of criminal and civil government forfeiture proceedings, SEC receivership and bankruptcy proceedings. Diamond

McCarthy has handled one of the largest and most successful coordination agreements between a bankruptcy estate trustee and the United States government involving asset seizure and forfeitures in U.S. history.

## **Counsel to Fiduciaries:**

Diamond McCarthy handles large portfolios of fraudulent transfer and preference litigation as well as litigation claims against third party tort defendants involving complex financial, professional liability, banking, insurance, and bankruptcy issues.

We frequently are asked to tackle issues of first impression in the courts and regularly argue such issues in the trial and appellate courts. Across the country and around the world, in courts, arbitration forums, and in alternative dispute resolutions, we provide premier representation for our clients.

The firm is also noted for our superior forensic work in the discovery phase and our ability to augment the value of various economic and financial experts with our lawyers' strong business, finance and accounting acumen. Various lawyers in the firm have public accounting backgrounds or are certified fraud examiners.

## **Representative Experience**

### *International Manufacturing Group, Inc. (IMG)*

- Acting on behalf of Beverly McFarland, Trustee in the IMG Wannakuwatte matter since 2014 and as lead special litigation counsel to the joint bankruptcy trustees in connection with what has been called the largest Ponzi scheme in the history of the Eastern District of California (approximately \$500mm). In connection with our representation we have prosecuted claims against a multitude of parties including financial institutions/banks and others involving claims of money laundering and negligence and other claims. Opposing counsel in the cases include numerous large and small law firms throughout San Francisco, San Jose and Sacramento, California. Favorable outcomes have been achieved with more claims against parties ongoing.

### *Direct Lending Investments LLC*

- Acting as international counsel for U.S. SEC Receiver and Cayman Islands Liquidator in connection with cross-border frauds related to Direct Lending, Inc. Commenced litigation in California and the Cayman Islands against institutional valuation firm; ongoing investigations against international professional firms, lenders, and others. Significant recoveries have been achieved to date with other matters still in pursuit.

### *Platinum Partners Arbitrage Fund, LP*

- Acting as lead trial counsel to Martin Trott and Christopher Smith, Joint Official Liquidators appointed in the Cayman Islands in connection with cross-border litigation proceedings in the United States and the Cayman Islands arising out of a billion dollar investment fund fraud. This matter involves litigation and ongoing claims in NYC, the Cayman Islands and other jurisdictions. In addition to the Cayman Island liquidation proceedings, there are ancillary proceedings in NYC under Chapter 15 of the U.S. Bankruptcy Code In aid of the Cayman Island courts and proceedings.

### *Appalachian Fuels*

- Acted as lead trial counsel for the Creditors Committee in the Appalachian Fuels LLC and related company bankruptcies in the Eastern District of Kentucky in connection with the investigation and pursuit of claims arising from this coal mining company's losses of more than one hundred million dollars. Claims involve a multitude of companies, former officers and directors, insurers and professional firms.

### *Equipment Acquisition Resources*

- Recently concluded representation as lead trial counsel to the Plan Administer in connection with the Chicago bankruptcy proceedings of Equipment Acquisition Resources, Inc. We investigated, analyzed and litigated fraudulent transfer claims under federal law, as well as pendent state claims against more than twenty (20) financial institutions in the commercial and financial leasing industry in this substantial nine figure Ponzi like fraud. One of the primary defendants was TD North America, a subsidiary of Toronto Dominion Bank of Toronto, Canada. While the case settled after five years on the eve of trial commencement and is confidential, we obtained for our client in settlement the same multimillion-dollar recoveries as if the case had been successfully tried and won in federal court. Other Defendant financial institutions included both global, national, and Chicago area banks and hedge funds (NY and Chicago based). Opposing counsel in these cases included global firms as well as more than a dozen other major and smaller law firms.

### *MCG Capital*

- Recently concluded representation the post-confirmation litigation trust arising from the Dallas bankruptcy of MCG Capital Corp. This multi-party litigation involved claims for fraudulent transfers, violations of state securities laws, breach of contract and fraud against financial institutions, accountants and other professionals/advisors resulting in eight figure recoveries that compensated our client for virtually one hundred percent of its damages/losses. The claims against financial institutions involved some of the largest banks in Dallas, Texas. Opposing counsel in this case included many of the largest and well-known law firms in Dallas.

### *Howrey LLP*

- Howrey LLP is one of the largest law firm bankruptcies in US history with over 750 lawyers and offices throughout the world in Belgium, France, Germany, the Netherlands, Spain, Taiwan and the United Kingdom. The DOJ appointed Allan Diamond as the Chapter 11 Trustee for the Howrey LLP law firm bankruptcy estate to wind down the global operations and oversee the recovery and monetization of its assets, including litigation claims. recovered upwards of a hundred million dollars for the Howrey bankruptcy estate to date.

### *Parmalat*

- We served as lead trial counsel to the Cayman Island Joint Official international liquidators for Parmalat Capital Finance, Ltd and other affiliates in connection with cross-border litigation in NYC (the “MDL”), Italy, Malta, Cayman Islands, Argentina, Brazil, UK, and other countries. Diamond McCarthy was the only law firm to go to trial in the MDL proceedings in the S.D.N.Y., and argued before the U.S. Court of Appeals for both the 2nd Circuit and 7th Circuit. We led discovery and other proceedings, working with both Italian civil and criminal counsel, throughout northern Italy. We appeared in court proceedings in Malta and other countries. The matters involved billions of dollars in damages adverse to Bank of America, Grant Thornton and other financial institutions and professional service firms.

### *USACM*

- Acted as lead trial counsel for the post-confirmation arising out of the former USA Capital based sub-prime mortgage lending entities in connection with the Trust’s investigation and pursuit of litigation claims involving hundreds of millions of dollars in damages in the federal courts of Las Vegas, Nevada. These claims and recoveries involve major financial institutions, corporations, accounting and legal professional organizations and other third parties

*For more information on our representative experience please reach out to our initial contacts or email [michael.evian@diamondmccarthy.com](mailto:michael.evian@diamondmccarthy.com).*